

R277. Education, Administration.

R277-474. School Instruction and Human Sexuality.

R277-474-1. Definitions.

A. "Board" means the Utah State Board of Education.

B. "Curriculum materials review committee (committee)" means a committee formed at the district or school level, as determined by the local board of education or local charter board, that includes parents, health professionals, school health educators, and administrators, with at least as many parents as school employees. The membership of the committee shall be appointed and reviewed annually by August 1 of each year by the local board, shall meet on a regular basis as determined by the membership, shall select its own officers and shall be subject to Sections 52-4-1 through 52-4-10.

C. "Family Educational Rights and Privacy Act" is a state statute, Sections 53A-13-301 and 53A-13-302, that protects the privacy of students, their parents, and their families, and supports parental involvement in the public education of their children.

D. "Human sexuality instruction or instructional programs" means any course, unit, class, activity or presentation that provides instruction or information to students about sexual abstinence, human reproduction, reproductive anatomy, physiology, pregnancy, marriage, childbirth, parenthood, contraception, or HIV/AIDS and other sexually transmitted diseases. While these topics are most likely discussed in such courses as health education, health occupations, human biology, physiology, parenting, adult roles, psychology, sociology, child development, and biology, this rule applies to any course or class in which these topics are the focus of discussion.

E. "Instructional Materials Commission" means an advisory commission authorized under Section 53A-14-101.

F. "Maturation education" means instruction and materials used to provide fifth or sixth grade students with age appropriate, accurate information regarding the physical and emotional changes associated with puberty, to assist in protecting students from abuse and to promote hygiene and good health practices.

G. "Medically accurate" means verified or supported by a body of research conducted in compliance with scientific methods and published in journals that have received peer-review, where appropriate, and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the American Medical Association.

H. "Parental notification form" means a form developed by the USOE and used exclusively by Utah public school districts or Utah public schools for parental notification of subject matter identified in this rule. Students may not participate in human sexuality instruction, maturation education, or instructional programs as identified in R277-474-1D without prior affirmative parent/guardian response on file. The form:

(1) shall explain a parent's right to review proposed curriculum materials in a timely manner;

(2) shall request the parent's permission to instruct the parent's student in identified course material related to human

sexuality or maturation education;

(3) shall allow the parent to exempt the parent's student from attendance for class period(s) while identified course material related to human sexuality or maturation education is presented and discussed;

(4) shall be specific enough to give parents fair notice of topics to be covered;

(5) shall include a brief explanation of the topics and materials to be presented and provide a time, place and contact person for review of the identified curricular materials;

(6) shall be on file with affirmative parent/guardian response for each student prior to the student's participation in discussion of issues protected under Section 53A-13-101; and

(7) shall be maintained at the school for a reasonable period of time.

I. "Professional development" means training in which Utah educators may participate to renew a license, receive information or training in a specific subject area, teach in another subject area or teach at another grade level.

J. "Utah educator" means an individual such as an administrator, teacher, counselor, teacher's assistant, or coach, who is employed by a unit of the Utah public education system and who provides teaching or counseling to students.

K. "Utah Professional Practices Advisory Commission (Commission)" means a Commission authorized under 53A-6-301 and designated to review allegations against educators and recommend action against educators' licenses to the Board.

L. "USOE" means the Utah State Office of Education.

R277-474-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution, Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-13-101(1)(c)(ii)(B) which directs the Board to develop a rule to allow local boards to adopt human sexuality education materials or programs under Board rules and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purposes of this rule are:

(1) to provide requirements for the Board, school districts, charter schools, and individual educators to select instructional materials about human sexuality and maturation;

(2) to provide notice to parents/guardians of proposed human sexuality and maturation discussions and instruction; and

(3) to provide direction to public education employees regarding instruction and discussion of maturation and human sexuality with students.

R277-474-3. General Provisions.

A. The following may not be taught in Utah public schools through the use of instructional materials, direct instruction, or online instruction:

(1) the intricacies of intercourse, sexual stimulation or erotic behavior;

(2) the advocacy of homosexuality;

(3) the advocacy or encouragement of the use of contraceptive methods or devices; or

(4) the advocacy of sexual activity outside of marriage.

B. Educators are responsible to teach the values and information identified under Section 53A-13-101(4).

C. Utah educators shall follow all provisions of state law including parent/guardian notification and prior written parental consent requirements under Sections 76-7-322 and 76-7-323 in teaching any aspect of human sexuality.

D. Course materials and instruction shall be free from religious, racial, ethnic, and gender bias.

R277-474-4. State Board of Education Responsibilities.

The Board shall:

A. develop and provide professional development and assistance with training for educators on law and rules specific to human sexuality instruction and related issues.

B. develop and provide a parental notification form and timelines for use by school districts and charter schools.

C. establish a review process for human sexuality instructional materials and programs using the Instructional Materials Commission and requiring final Board approval of the Instructional Materials Commission's recommendations.

D. approve only medically accurate human sexuality instruction programs.

E. receive and track parent and community complaints and comments received from school districts and charter schools related to human sexuality instructional materials and programs.

R277-474-5. School District and Charter School Responsibilities.

A. Annually each school district and charter school shall require all newly hired or newly assigned Utah educators with responsibility for any aspect of human sexuality instruction to attend state-sponsored professional development outlining the human sexuality curriculum and the criteria for human sexuality instruction in any courses offered in the public education system.

B. Each school district and charter school shall provide training consistent with R277-474-5A at least once during every three years of employment for Utah educators.

C. Local school boards and local charter boards shall form curriculum materials review committees (committee) at the district or school level as follows:

(1) The committee shall be organized consistent with R277-474-1B.

(2) Each committee shall designate a chair and procedures.

(3) The committee shall review and approve all guest speakers and guest presenters and their respective materials relating to human sexuality instruction in any course and maturation education prior to their presentations.

(4) The committee shall not authorize the use of any human sexuality instructional program or maturation education program not previously approved by the Board, approved consistent with R277-474-6, or approved under Section 53A-13-101(1)(c)(ii).

(5) The district superintendent or charter school

administrator shall report educators who willfully violate the provisions of this rule to the Commission for investigation and possible discipline.

(6) The district or charter school shall use the common parental notification form or a form that satisfies all criteria of the law and Board rules, and comply with timelines approved by the Board.

(7) Each district or charter school shall develop a logging and tracking system of parental and community complaints and comments resulting from student participation in human sexuality instruction, to include the disposition of the complaints, and provide that information to the USOE upon request.

D. If a student is exempted from course material required by the Board-approved Core Curriculum, the parent shall take responsibility, in cooperation with the teacher and the school, for the student learning the required course material consistent with Sections 53A-13-101.2(1), (2) and (3).

R277-474-6. Local Board or Local Charter Board Adoption of Human Sexuality Education and Maturation Education Instructional Materials.

A. A local board may adopt instructional materials under Section 53A-13-101(1)(c)(iii).

B. Materials that are adopted shall comply with the criteria of Section 53A-13-101(1)(c)(iii) and:

(1) shall be medically accurate as defined in R277-474-1G.

(2) shall be approved by a majority vote of the local board members or local charter board members present at a public meeting of the board.

(3) shall be available for reasonable review opportunities to residents of the district or parents/guardians of charter school students prior to consideration for adoption.

C. The local board or local charter board shall comply with the reporting requirement of Section 53A-13-101(1)(c)(iii)(D). The report to the Board shall include:

(1) a copy of the human sexuality instructional materials and maturation education materials not approved by the Instructional Materials Commission that the local board or local charter board seeks to adopt;

(2) documentation of the materials' adoption in a public board meeting;

(3) documentation that the materials or program meets the medically accurate criteria of R277-474-1G;

(4) documentation of the recommendation of the materials by the committee; and

(5) a statement of the local board's or local charter board's rationale for selecting materials not approved by the Instructional Materials Commission.

D. The local board's or local charter board's adoption process for human sexuality instructional materials and maturation education materials shall include a process for annual review of the board's decision.

R277-474-7. Utah Educator Responsibilities.

A. Utah educators shall participate in training provided under R277-474-5A.

B. Utah educators shall use the common parental notification form or a form approved by their employing school district or charter school, and timelines approved by the Board.

C. Utah educators shall individually record parent and community complaints, comments, and the educators' responses regarding human sexuality instructional programs.

D. Utah educators may respond to spontaneous student questions for the purposes of providing accurate data or correcting inaccurate or misleading information or comments made by students in class regarding human sexuality.

KEY: schools, sex education

Date of Enactment or Last Substantive Amendment: August 8, 2011

Notice of Continuation: July 1, 2010

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-13-101(1)(c)(ii)(B); 53A-1-401(3)]